IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 243 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE CIVIL SUPPLIES CORPORATION

Versus

JAISHREE CHANDULAL MEHTA

Appearance:

MR ND NANAVATI for Petitioners

MR SURESH M SHAH for Respondent No. 1, 2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 02/03/2001

ORAL JUDGEMENT

1. The petitioners are the original defendants. They have prayed for quashing and setting aside the order below Exhibit 46 passed in Civil Suit No.452 of 1989. The petitioners herein gave an application on the ground that without statutory notice under Section 80 of CPC,

suit against the Gujarat State Civil Supplies Corporation is not maintainable. That application was rejected by the trial court. The said order is impugned in this revision application. Some other prayers have also been made in this Revision Application that the trial court should decide the preliminary issue regarding the maintainability of the suit, etc. The plaintiffs had filed the said suit on the ground that they are the owners of the suit premises and the premises was let out to the Gujarat State Civil Supplies Corporation as a tenant.

2. It is the case of the plaintiffs that part of the property was damaged by the defendants and, therefore, without compensating the plaintiffs adequately, the defendants should be restrained from vacating the premises or they be directed to get it repaired. Further, the defendants be directed not to hand over the possession and should also go on paying rent to the plaintiffs.

3. At this stage, we are not concerned with the merits of the suit to the effect whether such suit is maintainable or not. However, on behalf of the respondents-original plaintiffs, Mr. Shah states that possession has already been handed over to the defendants, i.e., the Gujarat State Civil Supplies Corporation and the District Supply Mamlatdar. Since the possession has now already been handed over to the plaintiffs by the defendants, the suit will be required to be heard on other points involved in the suit.

4. Mr. Nanavati for the petitioners is now not pressing this revision application. There is also one additional ground for him for not pressing the revision application because the hearing of the suit is already concluded and the matter is kept only for judgment. At this stage, therefore, it is not required to examine the merits of the revision application and, therefore, the revision application is not required to be entertained any further. In that view of the matter, considering the fact that now the trial court has already concluded the hearing and kept the matter for judgment, the revision application is rejected as having not been entertained. It is also clarified that this Court has not expressed any opinion on the merits of the case one way or the other.

5. The revision application is accordingly disposed of as not pressed. Rule is discharged. Interim relief, if any, is vacated. No costs.

Liberty to apply in case of difficulty.

2nd March, 2001 (P.B. Majmudar, J.)

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(apj)